

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

H. ISABELLE MCGARRY TRUST OF)	CIV. NO. 07-00489 SOM/KSC
MARCH 19, 1971,)	
)	
Plaintiff,)	ORDER DISMISSING AMENDED
)	COMPLAINT WITH PREJUDICE
vs.)	
)	
STATE OF HAWAII; STATE OF)	
CALIFORNIA; UNITED STATES)	
COAST GUARD VESSEL)	
DOCUMENTATION CENTER;)	
DEPARTMENT OF PUBLIC SAFETY;)	
HAWAII COUNTY SHERIFFS)	
DEPARTMENT; DAVID LACY; JUDGE)	
RONALD IBARRA; STEVE)	
WHITTAKER; DAVID KAAPU; ERIC)	
NORTON; DENNIS KRUEGER; HON.)	
RICHARD C. CLINE; HON. ROBERT)	
DAHLQUIST; HON. RICHARD)	
HARRIS, et. al.)	
)	
Defendants.)	
)	

ORDER DISMISSING AMENDED COMPLAINT WITH PREJUDICE

Plaintiff Howard Hofelich, proceeding pro se, sued the State of Hawaii, the State of California, the United States Coast Guard Documentation Center, and various judges and attorneys involved in obtaining and enforcing a California judgment in Hawaii. On December 13, 2007, this court dismissed Hofelich's original Complaint pursuant to the Rooker-Feldman doctrine, determining that it improperly sought to appeal the California and Hawaii court decisions to this court. The court also dismissed the Complaint on Eleventh Amendment immunity grounds and noted that the judges had absolute immunity from Hofelich's claims. See Order Dismissing Complaint (Dec. 13, 2007). In the

same order, the court granted Hofelich leave to amend his Complaint to assert valid claims.

On December 31, 2007, Hofelich filed an Amended Complaint, this time naming the H. Isabelle McGarry Trust of March 19, 1971, c/o Howard Hofelich ("Hofelich"), as the Plaintiff. This Amended Complaint asserts the same claims asserted in the original Complaint. Defendants United States Coast Guard Documentation Center and the State of Hawaii have moved to dismiss Hofelich's Amended Complaint, arguing, in part, that it suffers from the same defects as the original Complaint.

On February 11, 2008, Hofelich submitted a document titled "Motion to Strike Motion to Dismiss." The court deems this document to be Hofelich's opposition to the motions to dismiss, as the court contacted Hofelich when he had failed to timely oppose the motions and he indicated that he would file his oppositions no later than February 11, 2008.¹

Because Hofelich's Amended Complaint is nearly identical to the original Complaint, this court agrees with Defendants that it suffers from the same defects as the original Complaint. Accordingly, the court dismisses the Amended Complaint for the reasons set forth in this court December 13, 2007, Order Dismissing Complaint. Pursuant to Local Rule 7.2(d), this court grants the motions to dismiss without a hearing.

¹To the extent Hofelich is actually seeking to have this court strike the motions to dismiss, Hofelich's motion to strike is denied because it is totally unsupported by any valid legal argument.

Although this court normally grants pro se litigants leave to amend their complaints so long as any deficiency could possibly be cured by amendment, Hofelich has demonstrated the futility of granting him leave to file yet another Amended Complaint. When this court previously granted Hofelich leave to amend his original Complaint, Hofelich merely reasserted the same claims based on the same facts. This indicates that Hofelich can offer no facts that could form the basis of a valid claim. Accordingly, the court dismisses Hofelich's Amended Complaint with prejudice. Weilburg v. Shapiro, 488 F.3d 1202, 1205 (9th Cir. 2007) ("Dismissal of a pro se complaint without leave to amend is proper only if it is absolutely clear that the deficiencies of the complaint could not be cured by amendment.").

All other motions pending before this court are denied as moot. The court directs the Clerk of Court to enter judgment in favor of Defendants and to close this case.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, February 12, 2008.



/s/ Susan Oki Mollway
Susan Oki Mollway
United States District Judge

H. Isabelle McGarry Trust v. State of Hawaii, et al., Civ. No. 07-00489
SOM/KSC; Order Dismissing Amended Complaint with Prejudice.